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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91193572
Party	Defendant FIREID INTERNATIONAL S.A.R.L.
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Date	03/05/2010
Attachments	FireID Answer.pdf (4 pages)(2669673 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Application Serial No. 77/710534
for the mark **FIREID**

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FIREEYE, INC.,

Opposer,

- against -

FIREID INTERNATIONAL S.A.R.L.,

Applicant.
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Opposition No. 91193572

ANSWER

Applicant FireID International S.A.R.L. ("Applicant"), as and for its Answer to the claims asserted in the Notice of Opposition ("Opposition") filed on behalf of Opposer FireEye, Inc. ("Opposer"), denies that Opposer will be damaged by the registration of Applicant's mark FIREID (Ser. No. 77/710534). With respect to the specific assertions in the Opposition, Applicant respectfully responds as follows:

1. Applicant admits that it seeks to register FIREID in Class 9 in connection with "[c]omputer software for use in the field of encryption and authentication, namely, for generating security passwords which provide verification and authentication of personal identification to computer systems, and authenticating users to computer services, and encrypting transactions."
2. Applicant admits that it seeks to register FIREID in Class 42 in connection with "[c]onsultancy services in the field of computer system security, namely, providing information regarding the encryption and authentication of user, computer and electronic data; data encryption services; computer services, namely, encryption and authentication of data; computer

services, namely, providing information concerning the encryption and authentication of electronic data via the Internet and mobile devices.”

3. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3 of the Opposition.

4. Applicant denies each and every allegation set forth in paragraph 4 of the Opposition, and respectfully refers the Board to U.S. Registration No 3,386,418, filed with the U.S. Patent and Trademark Office on September 9, 2005, for the contents thereof.

5. Applicant denies each and every allegation set forth in paragraph 5 of the Opposition, and respectfully refers to the Board to U.S. Registration No 3,386,626, filed with the U.S. Patent and Trademark Office on February 2, 2006, for the contents thereof.

6. Applicant denies each and every allegation set forth in paragraph 6 of the Opposition.

7. Applicant denies each and every allegation set forth in paragraph 7 of the Opposition, except admits that both Applicant’s and Opposer’s marks contain the word “FIRE.”

8. Applicant denies each and every allegation set forth in paragraph 8 of the Opposition.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

9. The Opposition fails to state any claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

10. Opposer’s allegations are barred by the equitable doctrines of waiver, estoppel, laches, acquiescence and/or unclean hands.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

11. Opposer lacks standing to assert the claims in the Opposition.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

12. Applicant's mark FIREID is substantially dissimilar in sound, appearance, meaning and commercial impression from Opposer's FIREEYE marks such that consumers are not likely to be confused, deceived or mistaken as to the source of Applicant's goods.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

13. Upon information and belief, the goods and/or services sold by Opposer and Applicant are substantially dissimilar and therefore no likelihood of confusion exists.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

14. Upon information and belief, Opposer and Applicant sell their goods and/or services in different channels of trade and therefore no likelihood of confusion exists.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

15. Opposer does not own the exclusive rights in and to any mark containing the term FIRE.

WHEREFORE, Applicant respectfully requests that Opposition No. 91193572 be dismissed in its entirety and that Application Serial No. 77/710534 be allowed to proceed to registration.

Dated: New York, New York
March 5, 2010

Respectfully submitted,

By: 
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CERTIFICATE OF SERVICE BY FIRST CLASS MAIL

I hereby certify that a true and correct copy of the foregoing ANSWER has been served on Joi A. White, Esq., attorney for Opposer FireEye, Inc., by mailing said copy on March 5, 2010, via First Class Mail, postage prepaid to:

Joi A. White, Esq.
Carr & Ferrell LLP
2200 Geng Road
Palo Alto, CA 94303

Dated: New York, New York
March 5, 2010



JOSHUA LIPMAN